



The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

Juan Gonzalez
147 Crown Point Road
Rochester, NH 03867

Re: Failed Septic System Replacement

ADMINISTRATIVE ORDER
No. WD 05-013

April 26, 2005

A. INTRODUCTION

This Administrative Order is issued by the Department of Environmental Services, Water Division to Mr. Juan Gonzalez pursuant to RSA 485-A:42, I. This Administrative Order is effective upon issuance.

B. PARTIES

1. The Department of Environmental Services, Water Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal office at 29 Hazen Drive, Concord, NH 03301.
2. Juan Gonzalez is an individual having a mailing address of 147 Crown Point Road, Rochester, NH 03867.

C. STATEMENTS OF FACTS AND LAW

1. RSA 485-A:29-44 authorizes DES to regulate the subdivision of land and the construction, maintenance, and repair/replacement of individual sewage disposal systems ("septic systems"). Pursuant to rulemaking authority conferred therein, the Commissioner of DES has adopted Env-Ws 1000 to implement this program.
2. Juan Gonzalez is the owner of the property located at 147 Crown Point Road, described as Lot #21, Tax Map #234 by the City of Rochester ("the Property").
3. The Property is served by an individual sewage waste disposal system. No municipal sewer service is available at the Property.
4. Individual sewage disposal systems are required to be properly operated and maintained in such a manner as to prevent a nuisance or potential health hazard due to failure of the system. RSA 485-A:37.
5. Env-Ws 1003.10 establishes the conditions for repair and replacement of failed septic systems.

6. On or about November 15, 2003, the City of Rochester code enforcement officer inspected the Property, and determined that the individual sewage disposal system on the Property had failed.
7. The City of Rochester issued a cease and desist order to Mr. Gonzalez, directing him to repair or replace the failed system as soon as possible.
8. On November 18, 2003, DES issued Letter of Deficiency WD SS 03-09 to Mr. Gonzalez, requesting his voluntary compliance with DES statutes and administrative rules to repair or replace the failed septic system on the Property. DES also requested that Mr. Gonzalez pump the collected sewage and have it properly disposed of until the system could be replaced.
9. To date, Mr. Gonzalez has failed to repair or replace the failed septic system on the Property.

D. DETERMINATION OF VIOLATIONS

1. Juan Gonzalez has violated RSA 485-A:37 by failing to properly maintain and operate an individual waste disposal system.

E. ORDER

Based on the above findings, DES hereby orders Juan Gonzalez as follows:

1. If the failed septic system on the Property can be replaced "in kind", pursuant to Env-Ws 1003.10, the septic system on the Property shall be replaced "in kind" by May 15, 2005.
2. The report required by Env-Ws 1003.10 (i) and (j) of the licensed septic installer replacing the septic system on the Property shall be submitted to DES by May 31, 2005.
3. If the septic system on the Property cannot be replaced "in kind", then by May 15, 2005, submit design plans for an individual waste disposal system to replace the failed system on the Property.
4. If new plans are submitted to DES and approved by DES, the new system shall be installed and inspected on the Property by June 15, 2005.
5. In the interim until the system is replaced in kind, or a new system is installed, Juan Gonzalez shall continue to have the septic tank pumped at least bi-weekly, and submit the pumping receipts to the City of Rochester health officer and to DES.
6. Send correspondence, data, reports, and other submissions made in connection with this Administrative Order, **other than appeals**, to DES as follows:

Richard J. de Seve, Compliance Supervisor
Subsurface Systems Bureau
DES Water Division

29 Hazen Drive
Concord, NH 03301
Fax: (603) 271-6683
e-mail: rdeseve@des.state.nh.us

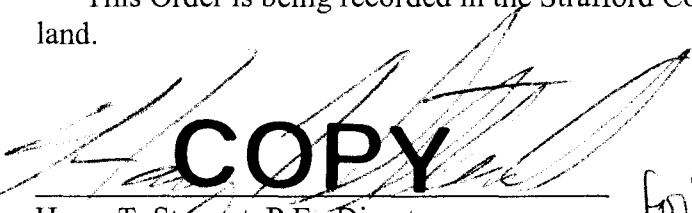
F. APPEAL

Any person aggrieved by this Order may appeal the Order to the Water Council by filing an appeal that meets the requirements specified in Env-200 within 30 days of the date of this Order. Copies of the rule are available from the DES Public Information Center at (603) 271-2975 or at <http://www.des.state.nh.us/desadmin.htm>. Appealing the Order does not automatically relieve Juan Gonzalez of the obligation to comply with the Order.

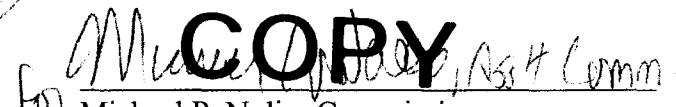
G. OTHER PROVISIONS

Please note that RSA 485-A:43 provides for administrative fines, civil penalties, and criminal penalties for the violations noted in this Order, as well as for failing to comply with the Order itself. Juan Gonzalez remains obligated to comply with all applicable requirements, in particular repairing or replacing the failed septic system on the Property. DES will continue to monitor Juan Gonzalez's compliance with applicable requirements and will take appropriate action if additional violations are discovered.

This Order is being recorded in the Strafford County Registry of Deeds so as to run with the land.


COPY

Harry T. Stewart, P.E., Director
Water Division


COPY
for _____
Michael P. Nolin, Commissioner
Department of Environmental Services

Certified Mail/RRR: 7099 3400 0002 9773 0765

cc: Gretchen R. Hamel, Legal Unit Administrator ✓
William E. Evans, P.E., Administrator, Subsurface Systems Bureau
Public Information Officer, DES PIP Office
Jennifer J. Patterson, Sr. Asst. Attorney General, NHDOJ/EPB
R. Dingy, Code Enforcement Officer, City of Rochester